

BOOK DIGITIZATION AND DIGITAL ISLAMIC LIBRARIES – A CASE STUDY OF AUSTRALIAN ISLAMIC LIBRARY

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ABSTRACT:

Over the centuries books are written and books are lost or destroyed. To stop that from continuing and passing on essential knowledge to next generations, preservation of books is an indispensable need. Australian Islamic Library, case study in this research paper, aims at providing digital books in multiple languages to researchers, educators, students and print-disabled readers across the globe. In this paper, we have discussed some potential benefits of books digitization¹ and how Australian Islamic Library is undertaking this task. Paper also analysis the concept from logical, legal and Islamic view-points focussing on aspects related to copyrighting of Islamic material and selling them for a cost. In doing so, cases from other international book digitization efforts have also been discussed. A comprehensive overview of relevant fatawa of Islamic scholars have been presented which establish the permissibility of Islamic digital libraries operating on non-profit basis for dawah purposes. Scope of this paper is restricted to Islamic books and multimedia and does not include any other copyrighted material, including books on secular subjects.

INTRODUCTION:

In accordance with commandment, *بلغوا عني ولو آية*, it is an obligation on Muslims to take the noble message of Islam to all humanity and invite them to this beautiful religion whose first command to mankind was '*IQRA*' (read). Books are one of the most useful methods of accomplishing this goal. Over the centuries, Islamic scholars have been producing large amount of excellent scholarly works from across the globe. Much of has got lost in wars, natural disasters and other catastrophes. Whatever is left is at risk of extinction at the hands of those with ill intentions. If serious efforts are not made to preserve this literature through book digitization and mass-scanning, next generations may not know much about our rich history and treasures of knowledge that our forefathers collected to enlighten the humanity.

In terms of contemporary literature, it is often inaccessible to people who do not live in the areas where it is produced. Even if becomes available, it happens at a very high cost. It is also seen commonly that in a few decades time, a large number of books vanish from the shelves as financial viability for printing them decreases and publishing company revenues decline. Printing accordingly

¹ Alhaji (2009) points out the following 'digitization':

Digitization as the process of taking traditional library materials that are in form of books and papers and converting them to the electronic form where they can be stored and manipulated by a computer. Digitization means no new buildings are required, information sharing can be enhanced and redundancy of collections reduced. Digitization leads to the development of Internet in digitalized based libraries. As Internet is now the preferred form of publication and dissemination. Digital materials can be sorted, transmitted and retrieved easily and quickly. Access to electronic information is cheaper than its print counterpart when all the files are stored in an electronic warehouse with compatible facilities and equipment. Digital texts can be linked, thus made interactive; besides, it enhances the retrieval of more information.

gets discontinued despite books being still relevant and useful. Due to unavailability of digital versions and circulating copies, the hard-work put in by authors and their untiring efforts cease to benefit users despite being in digital age where such scholarly works can potentially become an on-going sadaqa jariyah if availability in digital form is pursued. On top of that, people with disabilities, such as being print-disabled, cannot benefit from the treasure of knowledge locked in books behind paid walls.

In this paper, we will explore Australian Islamic Library, its purpose, objectives and methodology in overcoming challenges summarized above.

Australian Islamic Library is a digital library built with a vision to provide all essential Islamic knowledge in multiple languages under one collection.

A Digital Library (also referred to as digital library or digital repository) is a special library with a focused collection of digital objects that can include text, visual material, audio material, video material, stored as electronic media formats (as opposed to print, microform, or other media), along with means for organizing, storing, and retrieving the files and media contained in the library collection (Alhaji, 2009; Trivedi, 2010). Digital libraries can vary immensely in size and scope, and can be maintained by individuals, organizations, or affiliated with established physical library buildings or institutions, or with academic institutions. The electronic content may be stored locally, or accessed remotely via computer networks. In case of Australian Islamic Library, interface of digital libraries accesses books and multimedia stored on external book-processing servers.

Trivedi (2010) mentions following benefits for digital libraries:

- Access to large amounts of information to users wherever they are and whenever they need it.
- Access to primary information sources.
- Support multimedia content along with text
- Network accessibility on Intranet and Internet
- User-friendly interface
- Hypertext links for navigation
- Client-server architecture
- Advanced search and retrieval.
- Integration with other digital libraries.

According to study conducted by Alhaji (2009), benefits include improved access, wider access, improved information sharing and improved preservation. In further discussion in this paper, we will review how Australian Islamic Library is enabling these outcomes through its digital collection.

Australian Islamic Library and its bi-annual research journal work on open-access basis. Books published by library are also open-access and available free of cost to researchers, students and independent readers.

“Open Access seeks to return scholarly publishing to its original purpose: to spread knowledge and allow that knowledge to be built upon. Price barriers should not prevent students (or anyone) from getting access to research they need. Open Access, and the open availability and searchability of

scholarly research that it entails, will have a significant positive impact on everything from education to the practice of medicine to the ability of entrepreneurs to innovate” (*Why Open Access?*, 2015).

Later on in this paper, we will further take on analysis of copyrights and related aspects. However, before getting into further discussion, we consider it useful to present following finding to set the context: “The claim that Open Access publishing undermines copyright is simply untrue. Publishing Open Access works in fact increases intellectual property protection for authors because their works are highly visible, clearly identifying their scholarly writing” (Missingham, 2013).

OBJECTIVES OF AUSTRALIAN ISLAMIC LIBRARY:

Purpose of Australian Islamic Library is to collect and present works of Islamic scholars from across the globe under one website for print-disabled readers and those who do not have this scholarly material available to them at their geographical locations. Library management also understands the fact that many readers who want to read certain books cannot do so because of lack of affordability, especially in West. Similarly, researchers living in Western countries also depend mainly on digital books, as much of the scholarly works that they want to refer to are either not available at their locations or available at a price which is considered too expensive to purchase.

Australian Islamic Library provides resources (books and multimedia) in multiple languages (wherever possible) and aims to strive further in this regard in order to serve information access rights of society overcoming language, financial and geographical barriers.

Australian Islamic Library also aims to serve information needs and quench thirst for knowledge from diverse members of community. It not only caters for need of scholarly community, but also general public. Books are accordingly available from beginner to advanced level of knowledge.

Library’s management understands the requirements of present age and does not rely solely on books. Audios, Videos, Live TV and info-graphics are deployed to present information in smaller chunks and engage multiple senses in learning and information overview.

Library’s primary goal is to promote Islamic education and research. In accordance with this objective, library also runs a research journal titled ‘Australian Journal of Humanities and Islamic Studies Research’.

It is a basic principle of scientific study and research to analyse all available information before drawing conclusions. Results get seriously distorted if analysis is done to prove pre-concluded results or when only specific information or data resources are considered. This is the missing bit that leads to misunderstandings about Islam, islamophobia and its misrepresentation of Muslims. Library aims at providing scholarly works and various viewpoints from various schools of thought to clarify the subject and provide community, Muslim and Non-Muslims, a readily available resource enabling access to a variety of valuable texts on Islam and Muslims, facilitating first hand research and education.

COMPLIANCE WITH COPYRIGHT LAWS AND USE OF LIBRARY RESOURCES:

Australian Islamic Library is a ‘library’ and its role is to only ‘present’ information through books and multimedia. It does not own the entire content and cannot verify its correctness or appropriateness

in entirety. Disclaimers are seen on various webpages of library's website clearly mentioning that opinions expressed are those of authors and library may or may not agree with them. Library also suggests viewer discretion for some content. According to library management team, users are responsible themselves for their use of material from library's website. Any action or use that can be considered inappropriate or unethical is strongly prohibited and opposed by library management.

Library has put following terms and conditions in place with regards to use of material presented through books, multimedia and other means:

1. Library does not allow use of any of material presented here for any type of monetary or financial gains.
2. Information provided should be used for research, education and self-betterment purposes only. Users are more than welcome to pass-on information about this site to their friends and family members as long as 'fair-use' and 'fair-deal' aspects are taken into consideration.
3. While presenting this work, Library declares, that it has not read all the books in their entirety and accordingly DOES NOT endorse ALL views presented in those books or multimedia collections. As mentioned above, information provided on website is for research and educational purposes and does not represent personal opinion of site or library administrators. Any inappropriate contents can be highlighted using relevant form available on website.
4. Library presents works from scholars belonging to different schools of thought. Readers may find some difference of opinion accordingly, which should be taken positively and explored in further depth with authentic scholars in the light of Quran and Sunnah. Difference of opinion is a natural phenomenon and even sometimes sahaba used to disagree with each other on certain matters. We know of examples where Prophet ﷺ declared both opinions to be correct. Pious predecessors have also accepted difference of opinion on the matters of fiqh (and hence the four famous schools of 'jurisprudence').
5. Material provided on library website is for the type of users mentioned above (i.e. educational users or those who use it only for self-improvement purpose). No other use is permitted unless it falls under 'fair-use' and 'fair-deal' exceptions provided by local and international law.

This library website is mainly a compilation of hyperlinks to books and multimedia available online on renowned archives and repositories including archive.org, scribd, slidershare etc. (though there are some direct downloads present from library's web server).

Library trusts copyright protection systems of these web sites to have worked as intended in filtering the copyright violations. We accept no responsibility for any copyright infringements associated with material available through hyperlinks as we do not host that material. It is to be noted that as per court ruling from 'The court of Justice and European Union', the owner of a website does not require authorization of the copyright holder to link to freely accessible copyrighted works on another site, even if Internet users get the impression that the work is appearing on the site that contains the link (ALRC, 2013; Shaw, Thornton, & Rauer, 2014).

For the limited amount of material downloadable directly from library website, management has tried to ensure that there are no associated copyright violations.

However, library still encourages any authors or publishers who have any genuine concerns with their work available on library website (as direct download or external links), to let library staff know about their concerns. Library staff endeavours to remove such material from website as soon as possible.

Library has tried to ensure compliance with copyright conditions through following means:

1. Use of material already available on archives and document repositories.

Archiving servers used (e.g. scribd, archive.org and slideshare) have their own copyright check systems which block users who infringe copyrights. Most of the books and multimedia provided on library website has not been uploaded by library itself. Rather library team's prime focus was to identify, collect and present works available at various locations into one consolidated presentation scheme deployed on library website. When digitizing the books itself, library staff takes utmost precaution to ensure that no copyright violations are made. Many books which can be massively useful for library readers are left un-digitized because of publisher's copyright information that there books cannot be stored in electronic retrieval systems. Library completely and strongly disagrees with this approach from publishers but still respects their opinion and does not digitize any book mentioning such requirement.

2. Not uploading any books which mention that they cannot be distributed or stored through electronic means (in continuity to point 1).

Some links are available for those books which only mention 'publishing rights reserved'. Library assumes that the meaning of 'publishing right reserved' is that "printing hard copies for commercial use" is reserved with printers and there are is no restriction on digitization UNLESS otherwise communicated to library staff. Library has shared links to books with relevant publisher information and does not claim those books to be its work under any condition accordingly protecting their ownership of material.

3. Referencing those books which mention that permission has been obtained for distribution

Uploading books from sources which do not have copyright restrictions (May Allah reward them for their sincere effort which they do free from any monetary desires)

4. Uploading the hyperlinks to freely available material on internet

5. Providing purchase options from publishers and running publisher ads (free of cost) in an effort to boost their sales related to works available on this library website as links.

Library strongly encourages its readers to purchase printed books.

However, Library management totally acknowledges its weakness as human beings and request communication of information about any shortcomings in compliance to above points to library staff who are committed to attend to such requests as soon as possible.

Library also clarifies that it is not necessary that ALL of the above conditions are being fulfilled for every single book. However, there would be at least one or more conditions fulfilled in all cases which would form sufficient ground with regards to fair-use and fair-dealing.

Ownership of material/ literature on-site:

All material presented on this website is ownership of respective authors/ publishers and Library does not claim any of it to be its. Library neither intends to publish it for commercial purposes nor wants to gain any financial outcomes from their use.

This library site is completely not-for-profit and its staff gather finances through their own contributions to enable this website remain functional just for the sake of Allah to seek His pleasure.

USE OF MATERIAL AVAILABLE ON-SITE:

Library only permits FAIR-USE and FAIR-DEALING for material and resources available on its website and advises readers to ensure compliance with their local and other applicable legislations.

Following is the sole purpose of Islamic literature available on site:

- Education
- Research
- Books Review/ Critique of various translations and literary works
- Referencing
- Provision of books to users who do not have access to Islamic literature due to their location and absence of any publishers who publish essential Islamic books
- Assisting print-disabled persons in accessing Islamic literature which is otherwise inaccessible to them
- Other conditions falling within range of fair use and fair deal

Library is committed to complying with laws of land, encouraging peace and harmony among broader community of readers, publishers and general public. Library strongly opposes all forms of aggression, violence, oppression and terrorism, either done by Muslims or non-Muslims. All users have a responsibility to use material available through library website in a manner which is consistent with above mentioned objectives and applicable legal requirements. Also, it is a key 'term of use' to report any inappropriate content to library management along with relevant reasons why certain material was conducted inappropriate.

Library mentions that there may be some content on their website which requires viewer discretion. All material should first be assessed for age and suitability of use requirements before being accessed. Parents are responsible for ensuring that children do not access any material which is not suitable or their age.

Some books and videos are provided to present readers and researchers with different point of views and diverse thoughts. As mentioned before, difference of opinion is expected to be dealt in an

appropriate manner. It is re-iterated that books and videos referenced here do not represent our views in their entirety.

No users are allowed to use material available on library website in ways and manners other than those mentioned in above conditions. Use of site is NOT permitted for anyone not agreeing with Library's terms and conditions.

What cannot be done with books available on this website?

- Claiming any work to yours when it is not
- Unauthorized publishing
- Using this material for promoting any form of intolerance, violence, racism, discrimination and oppression
- Any other conditions that violate fair-use and fair-deal conditions

BENEFITS OF BOOK SCANNING:

Following section of this paper will review some of the reasons why Australian Islamic Library was established. Library management considers the following to be enough impetus to encourage further digitization of books and requests assistance from book publishers and other volunteers who can assist with this task while remaining within the legal boundaries. We owe this to our Ummah and humanity.

Assistance for print-disabled readers:

It is one of the primary objectives of Australian Islamic Library to make Islamic literature available for print-disabled readers on the same lines as Hathitrust - a proven case of legal fair-use (HIGGINS, 2014). Details about Hathitrust will be presented later on in this paper. It is an undeniable fact that there are many readers who struggle to get information from printed media due to vision impairment, inability to physically read books and other related disabilities. Australian Islamic library aims to serve as a useful tool for such print-disabled persons in seeking Islamic knowledge by providing them with copies of Islamic literature online in a format which they adapt to their needs. This enables zooming in and other options to cater for their needs.

Another key feature to assist readers with disability is 'Read Out Loud' option from servers such as archive.org which can be utilized for numerous files referenced in this library.

Accessibility of Important Information:

“The conversion of all sorts of cultural contents into bits and bytes opens up a completely new dimension of reaching traditional and new audiences by providing access to cultural heritage resources in ways unimaginable a decade ago” (HUGHES, 2003, p. 3)

In the present age of internet, intellectual resources are increasingly globalizing. This presents printed books with a limitation as they are printed and made available ONLY in specific areas in most cases. Muslims are present in all continents and countries, also including those where these books are neither printed nor imported from elsewhere. Book scanning is an initiative to break this barrier and make Islamic knowledge and information accessible to Muslim and non-Muslim users across the globe. If coupled with acquisition of more than one languages (including a more commonly spoken

languages such as Arabic, English, Spanish or French) and translation movements, it can bring a literary revolution in Muslim Ummah.

Book digitization is particularly beneficial for researchers who can search points of their interest from plain text available with most of the books in digital formats due to OCR features of book-processors such as archive.org. Another group that massively enjoys benefits from this is those interested in writing commentaries. Rather than writing the whole script again with no real benefit in order to write commentary, they now only need to format it and rather than re-inventing the wheel, focussing on their real task, i.e. commentary. It is a value addition for the whole community if we reflect deeply on this.

EVERYONE HAS A RIGHT TO ACQUIRE KNOWLEDGE! And more so, religious knowledge! Specifically Islamic knowledge! And it should not be restricted to only those places where books have been published or distributed.

Preservation:

“Digitisation contributes to the conservation and preservation of heritage and scientific resources; it creates new educational opportunities” (HUGHES, 2003, p. 6)

Thousands of religious books are being printed across the globe right now. Most of the books that were printed 50 (or less) years back are NOT among them. Books that are printed now will probably NOT be printed in another 50 (or less) years. There are many reasons for this to happen including, but not limited to, declining publishers’ profits in printing certain books, availability of new books on the subject with higher sales potential, destruction of books etc.

“The lifecycle for books is the same: a book is written, it is published, many people buy and enjoy it, the book slowly and quietly disappears and publishers stop printing copies. This happens to exceptional books, average books and books that perhaps should never have seen the light of day in the first place” (“Zimbabwe,” 2015).

During our golden age and before that, Muslims established dozens of libraries in every single area they went in to. Books were the most loved treasure and were acquired from far and wide, collected in houses of wisdom and pondered upon. Where is all that now? Those with a painful heart can still see ashes of our burnt treasures flying in the airs of Baghdad. Those with a corner for this Ummah in their hearts can still see the darkness of ink in river of Nile and mountain streams of Andalusia. We don’t have anything from that left with us anymore. Could this world be a different place had those books being preserved? What if those books could be digitized then and saved from destruction? Would our Ummah and scholars have happily adopted that option had that been available then? If the sound coming from the corridors of our thought is ‘yes’ then take it as a testimony that digitization of our book and manuscripts is a key factor that will decide our intellectual capacity in coming decades.

It is not the story of 'then' and 'them' only – destruction of books continues to happen even today. Think for a moment about what is happening in Muslim world in the last few decades. Has situation changed? Has peace been restored, forever? No. Infact, it is extremely unfortunate that wars and bombings, either by extremists or those who use mass-killing weapons against them, are a part of daily life in many countries. We still see libraries being destroyed. In 2003 (Burkeman, 2003), a

number of libraries were destroyed during the war on Iraq. In recent times also, we have seen ISIS extremist looting the libraries in Mosul ("ISIS threat forces Iraq to digitize national library," 2015; Sada, 2015) destroying rich cultural treasures and repeating the same in other areas under their occupation. Though late, but this damage and further threats has finally initiated some digitization efforts:

"In an effort to preserve centuries of the written word from possible pillage by Islamic State militants, the Baghdad National Library is rushing to scan ancient works to create digital archives" ("ISIS threat forces Iraq to digitize national library," 2015). Some of the books being digitized now have transformed into paper rocks due to time and weather effects. Had this not been started even now, much of the precious documents would have been lost forever!

The only way to preserve our precious knowledge and be able to transmit to our next generations is to preserve it through whatever means we can deploy for this purpose. Traditionally memorization has been a method of preserving classical texts. We can seek assistance from memorization of key texts in present age as well to some extent. BUT, people cannot memorize everything. And not everyone can remember what they memorize once. We undeniably need book digitization.

Even in countries where there is no war, we see many books being printed for a few years before getting disappeared completely as profits from their sale decline (Flanagan, 2014). Do these books become available to public in future after their publication stops? No, unless someone takes an initiative and digitize them. Do they ever become accessible to future generations? No, unless they get digitized. Digitization is our survivor kit. Paper book has a life and its circulation limited. Online resource can be read across the globe, simultaneous as long as that digital source remains. According to an author, "this means our books could be available long after we are" (Wyatt, 2011). Another digitization initiative from Springer goes out with a punch line 'The book will never die' (Harris, 2012) which will most probably be the case based on their digitization efforts. Publishers of Islamic books also have to adopt the same route.

If we do not make these scanned copies available, thousands of religious books would disappear in a few years. Australian Islamic Library is an effort to sustain the noble efforts of our scholars and preserving religious literature without a concern for short-term profit BUT the reward in the hereafter.

Affordability:

It is quite painful that those who do not have means and financial resources to purchase books cannot access them and remain deprived of significantly important information such as Tafsir, fiqh, history and hadith. We believe that restricting Islamic knowledge to only those who can afford to buy books is one of the highest forms of intellectual and moral transgressions one can do against Islam and Muslim ummah. Australian Islamic Library aims to break this barrier of affordability to enable those with weaker financial position to be still able to do research on matters related to Islam and use this material in compliance with fair-use conditions. Similarly those who have resources but not enough aptitude for Islamic literature also need to be given taste of this beautiful fountain of knowledge. Expecting them to be only able to get it when they buy this literature or expecting them to visit libraries which contain printed versions is not a wise thinking. Similarly, not giving a heed to it and Ignoring the idea of giving them an opportunity and persisting with financial barriers that need

to be crossed before accessing Islamic information is not any wise either. They deserve to be given an opportunity to read Islamic books of their choice which can only be possible if they are made available digitally and without any cost.

One of the management team members of library shares his own experience in this regard. His first exposure to Tafsir and hadith was from an Islamic website, titled 'quranurdu.com' which presented digitized books for readers including famous Tafheem ul Quran and 6 authentic books of hadith. It was from there that his journey took off and he started the pursuit of knowledge. He would have never accessed that at his own initiative by purchasing those books because of his financial condition at that time and his state of Imaan. Now when this library is taking initiative to spread this beautiful religion and enable furthering of Islamic research, it would be a sadaqa jariya for the initiators of this good which stemmed from their website, inshaAllah.

It is reported by Jarir R.A. that our beloved Prophet Muhammad ﷺ said: "Whoever initiates a good practice (sunnah hasanah) in Islam and is emulated by others in doing so will get the reward of it and the reward of all those who act upon it without their rewards being diminished in any respect. And whosoever initiates an evil practice (sunnah sayyi'ah) in Islam and is emulated by others will bear the sin of it and the sin of all those who act on it without their burden being diminished in the least." [Sahih Muslim: (1017)]

PERMISSIBILITY OF DIGITIZATION INITIATIVES:

Before discussing aspects related to permissibility, it is important to note that Library team shows their commitment that if:

- *As an author, publisher or reader, someone would like to get a book removed from this library due to certain reasons, it should be communicated to library through contact form available on website. Library will directly process and entertain such request from authors and publishers. Requests from readers and general public will be subject to review by library team.*
Experience of library staff has suggested appreciation from authors and their favour for digitizing their works and making them available on readers across the globe.
- *Library management also firmly believes that books being available online would positively influence higher sales of printed copies rather than impacting sales in a negative way (As a personal example, studying hadith books online encouraged me to purchase hard copies which would never have happened had I not seen the scanned versions). It is reported that e-book readers juggle between paper and electronics (Alter, 2015) and accordingly it can be interpreted that sale of one would positively impact the other..*

Library has not hosted most of the material directly on its server (as it presents contents as links from other servers such as archive.org, which maintain an additional layer of copyright protection) and endeavours to make its best effort to comply with relevant copyright requirements; it is useful to discuss book scanning approach from various angles as DAWAH for publishers and other relevant stakeholders.

1. LOGICAL GROUNDS

Just imagine for a moment if Prophet صلى الله عليه وسلم, Companions or great scholars of Islam would have put copyrights on their stuff so that no-one can use their work without permission. What if they would tell that it is a profit based matter and 'a percentage of it' would also be used for increasing the good work? We don't expect it from them, the most noble people to walk on this earth, and they never did that. Neither did our pious predecessor who never asked 'payment' for their efforts. The only thing that concerned them was 'as-is' production to avoid forgery in the noble message. Do you think such extensive research, innovations and inventions could have been possible with price barriers! How could information move from one area to the other when there were no electronic copies available? It was done through book copying authenticated and endorsed by scholars for further transmission. Books were transferred through camels, sometimes 120 of them at a time, laden with thousands of books on their backs travelling for months. But in 2015, we don't need that. This means of communication to enable research and Islamic scholarship now is through internet – reproducing copies 'as-is' without changes and making them available to those who need them to quench their thirst from what these books contain in them. To me, it makes perfect sense to make essential Islamic literature available in electronic form accessible across the globe. This also aligns with intentions of our aslaf like Imam Malik, Imam Abu Hanifa, Imam Ahmed, Imam Shafii, Imam Bukhari, Imam Muslim, Imam Ibn e Kathir and others who spent all their lives to spread the words of wisdom and their works to benefit the humanity. Why should that be restricted what the original authors never intended to restrict!

It is that of which Allah gives good tidings to His servants who believe and do righteous deeds. Say, "I do not ask you for this message any payment [but] only good will through kinship." And whoever commits a good deed - We will increase for him good therein. Indeed, Allah is Forgiving and Appreciative. (Quran 42:13)

Secondly, some people who support and advocate copyright of religious material claim that it is required for publishers to keep printing the books. I respectfully disagree with that. Copyright should be used as a means to protect the original work and its ownership rather than restricting public access to knowledge for financial purposes. It is highly unfortunate that sale of most Islamic books today are done on 'FOR PROFIT' basis, though some publishers claim that they pay to authors and use it in expansion of their efforts. I seriously respect this intention but have a few reservations:

- I struggle to understand how can they pay Imam Bukhari, Imam Muslim, Imam Ahmad, Imam Shafi'i, Imam Abu Hanifa, Imam Suyyan Thauri, Imam Ibn e Kathir, Imam Malik, Qutub Shaheed, Syed Suleman Nadwi, Maulana Maududi and others! If they don't pay them then why are their books not made available to public at cost price or free? That too when the original authors never copyrighted their work!
- If expansion and propagation of Islam depends on copy-writing books and money-making in selling them, Islamic knowledge would have already been long lost as there were no copyrights till 1923!
- In our opinion, copyrighting Islamic work, creates a monopoly and restrict access to Islamic knowledge.

Today we see works of Ibn Kathir, for example, published by a number of different publishers because the original work did not have any copyright. Had there been publishers in his time with

whom he would have locked in copyright agreements and contracts not allowing others to publish his work, his work would have been rarely available today as one publisher cannot operate forever and hard copies have certain life. Reviewing present day situation in the light of this example, clarifies following points very abundantly:

- Works of present day scholars can be in serious jeopardy a few decades down the lane when certain publishers cease to exist or lose interest in certain works (due to their lower or no financial gains in those times) unless these books get digitized and preserved
- These works should be made available publicly if their life is to be extended (which is an essential consideration when it comes to Islamic knowledge, more than any other branch of knowledge) so that they network around and keep benefitting other people.

2. LEGAL GROUNDS

Most countries have copyright laws with provisions for fair-use and fair-dealing which allows following and similar uses.

- *Research and study*
- Review and criticism
- Reporting the news
- Legal advice
- Parody and Satire
- Commentary,
- Search engines,
- *Teaching,*
- *Library archiving*
- Scholarship etc.

Following are some famous courts cases related to copyright issues that arise due to online content sharing (mainly books):

- In August 2008 US District Judge Jeremy Fogel of San Jose, California ruled that copyright holders cannot order a deletion of an online file without determining whether that posting reflected "fair use" of the copyrighted material (Kravets, 2008).
- In November, 2013, U.S. Circuit Judge Denny Chin in Manhattan accepted Google's argument that its scanning of more than 20 million books (Clark & Voris, 2015), and making "snippets" of text available online, constituted "fair use" under U.S. copyright law. The decision would let Google continue expanding the library, which it said helps readers find books they might not otherwise locate. James Grimmelman, a University of Maryland intellectual property law professor said: "It is also a good ruling for libraries and researchers, because the opinion recognizes the public benefit of making books available," (STEMPEL, 2013). **It was also discussed in court that this has a potential to increase sales rather than reducing it.**
- In a decision that is likely to help shape the future of online fair use, a federal court in New York concluded that digitizing books in order to enhance research and to provide access to print-

disabled individuals is lawful - *The Authors Guild, Inc. v. HathiTrust* (BARCLAY & MCSHERRY, 2012). But what is perhaps most refreshing is that the court paid close attention to the public interest in the project, recognizing that it actually served the purposes of copyright: to promote the progress of science and the useful arts. Citing a brief filed by EFF and several library associations, the court recognized that the HathiTrust projects efforts helped, rather than hindered, access to creative works. That public benefit, the court said, meant that the HDL supported "the underlying rationale of copyright law". ALRC (Australia) mentions following on its website regarding fair use and HathiTrust Case while discussing the issue for libraries and archives. We have highlighted the point that are completely in line with objectives of our library.

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12.30 Fair use is expected to cover uses that are not covered by specific exceptions relating to preservation and document supply, discussed below. This section briefly highlights how fair use might apply in relation to certain uses made by cultural institutions.

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Also,

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12.31 Fair use may allow cultural institutions to undertake mass digitisation projects in some instances. For example, in *Authors Guild v Hathi Trust*, the District Court for the Southern District of New York found that the defendant's mass digitisation of works in its collections to allow its members to conduct full text searches across the entire collection and to allow print-disabled patrons to access the collection to be fair use. The use of copyright material was found to be transformative in that it provided access for print-disabled individuals, a purpose that was not served by the original work. The provision of access for print-disabled individuals did not have a significant impact on a market.

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And

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12.32 In the ALRC's view, mass digitisation projects are more likely to be fair use where they facilitate research and study, are transformative in nature, use material in the public domain, or are undertaken for non-commercial reasons.

" (ALRC, 2013)

Figure 1 is snapshot from HathiTrust website demonstrating their method of allowing full text readable books (similar to archive.org which is heavily hyperlinked in our web site).

Note: HathiTrust partner libraries/ institutes have shared their digitized contents to pool in to this repository. List of partners can be reviewed at:

<http://www.hathitrust.org/community> (as on 7-Nov-15)

In accordance with above, Library considers providing digitized books (through hyperlinks) for educational and research purposes (hosted at servers and websites maintaining copyright check systems as an additional layer of protection) on non-profit basis (zero cost to researchers, students

and educators) to be fair use. Also, according to decisions made by courts digitization of books is not an infringement (BARCLAY & MCSHERRY, 2012) and hyper-linking does not infringe copyrights (Shaw et al., 2014). However, if any publisher still disagrees with this, library would consider their requests and respond, either by removing links to their books or by seeking more information regarding why they believe that the library is not using this material in accordance with fair-use and fair-dealing principles (as they are required to determine about Library's fair use before requesting deletion according to 2008 case cited above)

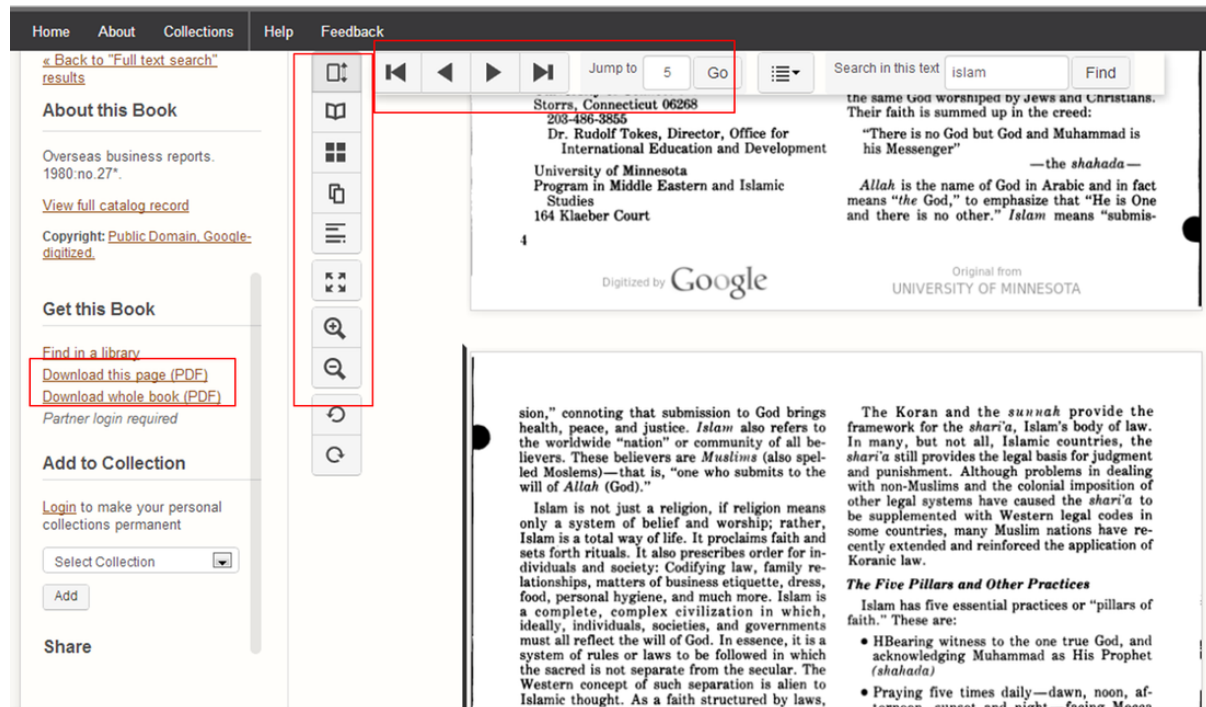


Figure 1: A screenshot from Hathitrust website

3. RELIGIOUS GROUNDS:

Numerous scholars have given fatawa about permissibility of using Islamic material (even under copyright protection) for non-monetary purpose and for dawah. **This permission is not applicable to anything other than Islamic material e.g. books, lectures etc.**

In a fatwa from Jamia Islamia Binori Town Karachi, Pakistan, a questioner presented the same scenario as we have described before (i.e. charging high amounts for Islamic books and not allowing that to be copied, especially in West where costs are manifolds higher than the actual cost price). In response, Maulana Habib ullah Mukhtar gave a comprehensive response quoting various opinions and establishing that though charging minimal expenses may be permissible, charging massive amounts and reserving rights for further transmission and reproduction is not permissible (Mukhtar, 2006). This clearly demonstrates that putting copyrights on religious material and charging hefty amounts is restricting propagation of knowledge and noble religion of Islam.

There is a fatwa from Sheikh Bin Baaz (Saudi Arabia) also which allows use of Islamic material for non-monetary purposes (Musharraf, 2015).

Shaikh Yousaf Estes in one of his talk (Musharraf, 2015) mentioned his encouragement towards copying and distributing religious material. One of his statements was that “We are not trying to make money out of selling our religion”. He also stated “I think it is people in some other religions who do that”. We interpret from this that if we also start doing the same or continue to do the same, we will be imitating those who do not believe and and sell their religion for worldly gains.

...“Do not trade away My revelations for a cheap price, and observe Me”. (Quran 2:41)

“And there are certainly among the people of the Book those who believe in Allah in the revelation to you and in the revelation to them bowing in humility to Allah: they will not sell the signs of Allah for a miserable gain! for them is a reward with their Lord and Allah is swift in account.” (Quran 3:199)

Another scholar Sheikh Feiz has mentioned his opinion (Musharraf, 2015) that Islamic work should not be restricted with copyrights and distributed to all those who need it.

Following are some points highlighted from reliablefatwas.com – a website that presents articles, fatawa and responses from Maulana Ahmad Sadeq Desai (“About,” 2013) unless stated otherwise on an article or fatwa:

Copyright in the Light of the Shariah (Desai, 2014a):

- Although this issue is simple, not requiring any academic discussion to dispose of its baatil, some modern-day scholars who have embraced liberalism have introduced unnecessary complications of deception by their presentation of arguments with a Shar’i hue, but devoid of Shar’i substance. Their fallacious interpretations and citation of certain ahkaam out of context to accord validity to copyright –that it is a Shar’i right which is a valid subject of trade- have resulted in creating confusion in the minds of people not well-versed with the intricacies of the principles and rules of the Shariah. There has, therefore, developed the need for this refutation to dispel the haze of deception which the liberalists have created with their spurious arguments.
- The issue of copyright in the light of the Shariah is extremely straightforward and simple. It is a miserable concept which has absolutely no validity in the Shariah. It is not maal (tangible or physical commodity) which could be tradable in terms of the laws of Islam. Dealing in this imagined ‘right’ is baatil—null, void and haraam. Just as it is haraam to prevent a man from reading a book which he has bought, so is it haraam to prevent him from copying the book by whatever means he chooses. Just as it is haraam to prevent a man from selling a book which he has bought, so too is it haraam to prevent him from printing the book which belongs to him regardless of who the author is.
- This action “forms a barrier between Allah’s Deen and His servants”.

While analysing the arguments of those who advocate copyright of Islamic material, fatwa also mentions (Desai, 2014b):

- Regardless of whether Deeni books are published in this age for altruistic Deeni aims or for monetary gain, this is no grounds for claiming Shar’i validity and permissibility for the

concept of copyright. On the assumption that all Deeni books in this age are published for only monetary gain and for no other altruistic aim, then too, this is not a Shar'i basis for the validity of copyright and to trade in it. The Shariah categorically prohibits selling of even valid rights which it recognizes. So, whether books are printed and published for Deeni reasons or pecuniary gain or whether exclusively for pecuniary gain without even the intention of thawaab, then too, this does not constitute Shar'i grounds for validity of copyright and for permissibility to trade in such imagined right.

- Some advocates of copyrights claim: "In the absence of copyright the author suffers monetary loss". Mufti Desai answers this question in a lot of detail establishing the point that "future loss of imaginary or expected earnings" is not recognized by the Shariah". The Shariah simply does not regard deprivation of future benefit as a monetary loss. In the Shariah a true loss will be the loss of tangible commodity (money or material commodities) which is already in one's possession. An opinion from Mufti Muhammad Shafi is quoted: "This is not dharar (a harm or actual loss). It is the non-existence of a benefit, in fact a decrease in benefit. The difference between dharar and adm-e-nafa' (non-existence of benefit) is quite apparent.....If because of our activity there results a decrease in the profit of someone, then there is permission (for such activity). If in the marketplace there are a number of shops trading in the same commodities, and this results in the decrease of any trader's profit or in the total deprivation of profit, it will not be said that the other traders are responsible for causing him loss. Hence there is neither Shar'i nor rational grounds for preventing the traders from trading (in that area)."
- Advocates of copyright on Islamic material also claim: "According to the Shariah if Maslihat does not conflict with Nass, then its adoption is permissible." According to them copyright is not in conflict with any law of the Shariah, hence it is permissible. Mufti Desai mentions that this claim is likewise baseless. To support this argument, he refers to earlier discussion during the fatwa which establishes:
 - o Copyright infringes on the natural and lawful right (Haqq-e- Mubah) of others besides the author—their right to utilize their own property to earn lawful profit.
 - o Copyright prevents the free and mass distribution of beneficial Deeni kitaabs.
 - o Copyright is exploitation since it fosters haraam monopolies and it allows the author to fix exorbitant prices.
 - o Copyright allows the greed of an individual to cause detriment to the masses.
 - o Copyright allows monetary dealing in an entity which is not maal (tangible or physical commodity). This is haraam. The prohibition of selling rights applies to a greater degree to an imaginary right – a right which does not exist in the Shariah.

All these acts are in conflict with Nass. The conspicuity of the conflict with Nass does not require the production of evidence as the conflict is obvious.

In addition to above opinions and points, library's management has also sought opinion of two prominent Australian Muslim scholars who consider upload of Islamic material for dawah purposes as permissible. It was considered preferable to give a few years period before uploading a book so that publisher can make good profit during that time.

CONCLUSION:

In this paper, we have reviewed the operating model of Australian Islamic Library and its key objectives. We also presented a comprehensive review of logical, legal and religious aspects related to digitization of Islamic books and established the point of its permissibility in terms of relevant legislation and rulings from Islamic scholars. It was concluded that digitization of Islamic books is an essential requirement in terms of preserving important Islamic literature and passing it on to next generation who can build further on this and extend scholarly efforts to next level.

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